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June 5, 2023

**VIA ELECTRONIC FILING**

The Honorable Christopher J. Burke  
U.S. District Court for the District of Delaware  
J. Caleb Boggs Federal Building  
844 N. King Street  
Wilmington, DE 19801-3555

Re: *The Nielsen Company (US), LLC v. HyphaMetrics, Inc.*,  
C.A. No. 21-1591-CJB (D. Del.)

Dear Judge Burke:

Plaintiff The Nielsen Company (US), LLC (“Nielsen” or “Plaintiff”), and Defendant HyphaMetrics, Inc. (“HyphaMetrics” or “Defendant”) respectfully submit this joint letter pursuant to the Court’s Oral Order of May 31, 2023, in the case captioned above.

The parties met and conferred by videoconference for 25 minutes on June 1, 2023. Participating for Plaintiff were Bindu Palapura (Delaware counsel), Andrew Brown (Delaware counsel), Steven Yovits (lead counsel), Constantine Koutsoubas (lead counsel), and Melvin Gaddy (lead counsel). Participating for Defendant were Stacey Scrivani (Delaware counsel), Mark Anania (lead counsel), and Michael Eisenberg (lead counsel).

In light of the parties’ claim construction briefing, on May 27, 2023, Nielsen sent HyphaMetrics revised proposed constructions that Nielsen believed narrowed the parties’ disputes. The parties discussed those revised constructions at the June 1, 2023 meet and confer, and the resulting Second Amended Joint Claim Construction Chart is attached to this letter as Exhibit A. A redlined version that shows the differences between the First Amended Joint Claim Construction Chart (which the parties filed prior to the start of claim construction briefing) and the Second Amended Joint Claim Construction Chart is attached as Exhibit B, which also includes redlines aligning the parties’ positions to those presented in their briefing.

Nielsen has modified its proposed constructions of the “measuring/measured power consumption” terms by replacing “monitoring/monitored” with “measuring/measured.” The parties agree that this modification will eliminate their dispute over the appropriateness of using the words “monitoring” and “monitored” in the constructions. However, the parties have not reached agreement on the remaining disputes regarding these terms, and accordingly, they will be prepared to argue those disputes at the June 8, 2023 *Markman* hearing.

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Nielsen has also modified its proposed construction of “monitor the media presentation device.” In particular, Nielsen has truncated its proposed construction, deleting all words after “detect the media content presented by a media presentation device.” This truncation eliminates the parties’ dispute regarding whether the deleted language’s use of the term “such as” is appropriate. The parties have not reached agreement on the remaining disputes regarding this term, and accordingly, they will be prepared to argue those disputes at the June 8, 2023 *Markman* hearing.

The parties did not reach an agreement to conduct the *Markman* hearing by videoconference, and they therefore understand that the hearing will be conducted in-person.

The parties thank the Court for its attention to these matters.

Respectfully,

/s/ Bindu A. Palapura

Bindu A. Palapura

BAP:nmt/10844620/14944.00003

Enclosures

cc: Clerk of Court (via hand delivery)  
Counsel of Record (via electronic mail)